

## DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR  
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August 11, 2000

Linda Christensen, Buyer  
Administrative Services Department  
City of Santee  
10601 Magnolia Avenue  
Santee, CA 92701-1266

Re: Public Works Case No. 2000-021  
City of Santee/California Street Maintenance Street Sweeping

Dear Ms. Christensen:

This constitutes the determination of the Director of the Department of Industrial Relations regarding coverage of the above referenced project under California's prevailing wage laws. This determination is made pursuant to Title 8, California Code of Regulations, section 16000. Based upon my review of the facts of this case and an analysis of the applicable law, it is my determination that the street sweeping services provided under contract to the City of Santee are a public works within the meaning of Labor Code section 1771 and Title 8, Cal.Code Regs. section 16000, Definition 1 ("Maintenance".) The exception to the definition of maintenance for janitorial or custodial services, section 16000, Exception 1, does not apply to this work.

The City of Santee ("City") annually contracts for street sweeping services with California Street Maintenance, Inc. The City has submitted a copy of its previous contract, which required prevailing wages. The rate to be paid is that of a Power Sweeper Operator (Operating Engineer Group 4.<sup>1</sup>) The City is uncertain whether the new contract (which was scheduled to begin July 1, 2000) would require the payment of prevailing wages.

The contracted for services consist of furnishing all labor, materials, machinery, equipment, tools, water and supplies necessary for complete street sweeping services of Santee's public streets and medians, designated intersections, designated

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<sup>1</sup> Operating engineers, typically, are heavy equipment operators.

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center lanes and designated parking lots. The work is to be performed on a periodic and scheduled basis. (Section 3 "Areas to Be Swept", Section 4, "Description of Work."; Section 21 "Performance Schedule.") The Contract also provides for emergency street sweeping services. This work includes the mechanized cleaning of all curbs, gutters, median curbs, road shoulders, turning lanes and alleys. (Section 20 "Duty of Contractor.") The Contract requires compliance with State and Federal commercial motor vehicle safety law. (Section 4.4.)

The sweeping work is done with standard heavy-duty mechanical brush and broom-type street sweeping equipment, as necessary, to clean the designated areas of all paper, wet leaves, dirt, rocks and other debris. The sweeping equipment must include adequate water systems for dust control. The Contract also provides, in limited circumstances, for the use of small air or vacuum sweepers. Support equipment includes debris transfer vehicles, pickup trucks, service trucks, tire trucks and other equipment necessary to provide street sweeping services.

Section 16000 provides in pertinent part:

Maintenance. Includes:

(1) Routine, recurring and usual work for the preservation, protection and keeping of any publicly owned or operated facility (plant, building, structure, ground facility, utility system or any real property) for its intended purposes in a safe and continually usable condition for which it has been designed, improved, constructed, altered or repaired.

The street sweeping contract addresses heavy-duty automated cleaning of the City's streets. A city's streets are not traditionally considered a "facility", as that term is defined in the regulation to be "plant, building, structure, ground facility [or a] utility system . . ." ; however, the city's streets come within the ambit of ". . . any [publicly owned] real property."

A city street system is publicly owned real property, dedicated to public, business and governmental use of motorized and non-motorized conveyances for personal and commercial travel and transport. Street sweeping is both safety and use connected. The work of keeping a city's streets clean is not purely

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aesthetic; street sweeping keeps the public streets in a "[s]afe and continually usable condition for which the [city's streets have] been designed, improved, constructed, altered or repaired." Thus, the cleanliness of the streets is a necessary function of keeping them in a safe and continually usable condition. Such safe and usable condition is essential for the function of a city's thoroughfares in the manner for which they have been designed, constructed improved or altered and repaired.

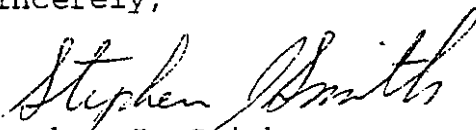
Title 8, Cal.Code Regs., section 16000, Exception 1 excludes "janitorial" and "custodial" work of a "routine, recurring or usual nature . . . ." The standard definition of "janitor" is "One who attends to the maintenance or cleaning of a building." (The American Heritage Dictionary, (2d College Ed. 1982) p.685.). "Custodian" is defined as "janitor." (The American Heritage Dictionary, (2d College Ed. 1982) p.357.). "[J]anitorial" and "custodial" work that is "routine, recurring or usual" can be defined, in a practical sense, to mean individual labor intensive work devoted to the maintenance or cleaning of a structure.

By contrast, city streets and highways are, from an economic analysis, "infrastructure." "Infrastructure" is much broader than a single structure or facility. "Infrastructure" is defined as "The basic facilities, equipment, and installations needed for the functioning of a system or organization." *Id.* City streets (highways and parking lots) are, by their very nature, a basic installation needed for the functioning of a city's transportation system.

Rather than individual janitors or custodians assigned to the cleaning of buildings, the workers in issue are heavy equipment operators performing heavy automated maintenance of the City's system of streets, highways and parking lots. The street sweeping, therefore, is not "janitorial" or "custodial" in nature and is subject to the payment of prevailing wages.

I hope this determination letter satisfactorily answers your inquiry.

Sincerely,

  
Stephen J. Smith  
Director

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